

# Rules and Regulations

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 217

[INS No. 1685-95]

RIN 1115-AB93

#### Visa Waiver Pilot Program; Ireland

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Immigration and Naturalization Service (Service) amends its regulations by extending the Visa Waiver Pilot Program to permit nationals of Ireland to apply for admission to the United States for ninety (90) days or less as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa. This action will facilitate travel to the United States.

**DATES:** This interim rule is effective April 1, 1995. Written comments are invited and must be received on or before May 30, 1995.

**ADDRESSES:** Please submit written comments in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1685-95 on your correspondence. Comments will be available for public inspection at this location by calling (202) 514-3048 to arrange an appointment.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Hays, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW, Room 7228, Washington, DC 20536, Telephone number: (202) 514-0912.

**SUPPLEMENTARY INFORMATION:** Section 313 of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, added section 217 to the Immigration and Nationality Act (Act) which established the nonimmigrant Visa Waiver Pilot Program. The Visa Waiver Pilot Program waives the nonimmigrant visa requirement for the admission of certain aliens to the United States for a period not to exceed ninety (90) days. That original provision authorized the participation of eight countries in the Pilot Program. Initially, the United Kingdom was the only country designated to receive these benefits for its nationals. Japan, having agreed to reciprocal treatment for United States citizens entering Japan under similar circumstances, was added as a designated country under the Pilot Program effective December 15, 1988. France, the Federal Republic of Germany, Italy, the Netherlands, Sweden, and Switzerland, having met all of the requirements for participation in the Visa Waiver Pilot Program, were added later as designated countries participating in the Pilot Program. This action was accomplished by the Secretary of State and the Attorney General, acting jointly through their designees, in a final rule published at 54 FR 27120-27121, on June 27, 1989.

The Immigration Act of 1990, (IMMACT 90), Pub. L. 101-649, dated November 29, 1990, revised the Visa Waiver Pilot Program as set forth in section 313 of IRCA by removing the eight-country cap and extending its provisions to all countries that met the qualifying provisions of the Visa Waiver Pilot Program and were designated by the Secretary of State and the Attorney General as Pilot Program countries thereunder. Section 201 of IMMACT 90 also extended the period of the pilot program until September 30, 1994, for the eight Pilot Program countries already designated under IRCA, as well as for any additional Pilot Program countries that were designated under the law, as amended, subject to their continued qualification.

As a result of these amendments to section 217 of the Act, Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, San Marino, and Spain, having met all of the requirements for participation in the nonimmigrant Visa Waiver Pilot

Program, were added, effective October 1, 1991. (56 FR 46716). Subsequently, Brunei was added, effective July 29, 1993. (58 FR 40581).

Section 210 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, dated October 25, 1994, extended the expiration date of the Visa Waiver Pilot Program until September 30, 1996, and revised the program, as set forth in section 211 of that Act, by adding a probationary program category of designation. Countries designated for the probationary program are required to meet a different eligibility standard than those designated for the pilot program. Probationary program countries are required to have:

a. A nonimmigrant visitor visa refusal rate average over the preceding 2 fiscal years that is less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years;

b. A nonimmigrant visitor visa refusal rate that is less than 3.0 percent for the preceding fiscal year; and

c. Have a less than 1.5 percent violation rate which is defined as the number of those nationals of the proposed country who were admitted to the United States as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission or were excluded or withdrew their applications for admission as nonimmigrant visitors.

Unlike the pilot program, countries designated for the probationary program are designated for a specific period of time, not to exceed 3 fiscal years.

This interim rule amends 8 CFR part 217 to extend the Visa Waiver Pilot Program to include the country of Ireland in the newly established probationary program. The Government of Ireland has agreed to provide reciprocal treatment for United States citizens entering Ireland under similar circumstances. The Government of Ireland has also certified that it has established a program to introduce machine-readable passports as required by section 217(g)(2)(D) of the Act. Therefore, having met all of the other requirements of section 217(g) of the Immigration and Nationality Act, as amended, Ireland is designated as a country participating in the Probationary Program portion of the Visa Waiver Pilot Program by the Secretary of State and the Attorney General, acting jointly through their

designees. (See the Department of State Rule published elsewhere in this issue of the **Federal Register**.)

The Service's implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons and the necessity are as follows: this rule relieves a restriction and is beneficial to both the traveling public and U.S. businesses.

#### Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely removes a restriction to both the public and United States businesses.

#### Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

#### Executive Order 12612

The regulation proposed herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Executive Order 12606

The Commissioner of the Immigration and Naturalization Service herein certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that it will not have any impact on family well being.

#### List of Subjects in 8 CFR Part 217

Administrative practice and procedures, Aliens, Passports and visas.

Accordingly, part 217 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

#### PART 217—VISA WAIVER PILOT PROGRAM

1. The authority citation for part 217 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1187; 8 CFR part 2.

2. Section 217.5 is amended by redesignating paragraph (a) as paragraph (a)(1), revising the heading of newly designated (a)(1) to read "*Visa Waiver Pilot Program Countries*," and adding a new paragraph (a)(2) to read as follows:

##### § 217.5 Designated countries.

(a)(1) \* \* \*

(2) *Visa Waiver Pilot Program Countries with Probationary Status.* Effective April 1, 1995, until September 30, 1998 or the expiration of the Visa Waiver Pilot Program, whichever comes first, Ireland has been designated as a Visa Waiver Pilot Program country with Probationary Status in accordance with section 217(g) of the Act.

\* \* \* \* \*

Dated: March 1, 1995.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 95-7450 Filed 3-27-95; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

##### Animal and Plant Health Inspection Service

##### 9 CFR Part 94

[Docket No. 93-061-2]

##### Certificate for Importation of Milk and Milk Products

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations concerning the importation of milk and milk products to require that any milk or milk product imported into the United States from countries declared free of rinderpest and foot-and-mouth disease be accompanied by a certificate stating that the milk was produced and processed in a country declared free of rinderpest and foot-and-mouth disease, or that the milk product was processed in a country declared free of rinderpest and foot-and-mouth disease from milk produced in a country declared free of rinderpest and foot-and-mouth disease. The certificate must name the country in which the milk was produced and the country in which the milk or milk product was processed.

Also, the certificate must state that, except for certain movement under seal, the milk or milk product has never been in any country in which rinderpest or foot-and-mouth disease exists.

Requiring a certificate will help ensure that milk or milk products imported into the United States do not introduce rinderpest or foot-and-mouth disease into the United States.

**EFFECTIVE DATE:** April 27, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Gray, Senior Staff Veterinarian, Import-Export Products Staff, National Center for Import-Export, VS, APHIS, Suite 3B05, 4700 River Road Unit 40, Riverdale, MD 20737-1228, (301) 734-4401.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 94 (referred to below as "the regulations") govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases, including rinderpest and foot-and-mouth disease (FMD). These are dangerous and destructive communicable diseases of ruminants and swine.

The regulations in § 94.1(a)(2) list countries that are declared free of rinderpest and FMD. Milk and milk products have the potential to spread rinderpest and FMD if they are produced or processed in or have transited a country where these diseases exist. Therefore, under § 94.16, milk and milk products are restricted entry into the United States unless they are imported from countries listed in § 94.1(a)(2).

On June 21, 1994, we published in the **Federal Register** (59 FR 31957-31959, Docket No. 93-061-2) a proposal to amend § 94.16 to require that, except for milk and milk products imported from Canada, milk or milk products imported into the United States from a country listed in § 94.1(a)(2) as free of rinderpest and FMD must be accompanied by a certificate endorsed by a full-time, salaried veterinarian employed by the country of export. The certificate was to state that the milk was produced and processed in a country listed in § 94.1(a)(2), or that the milk product was processed in a country listed in § 94.1(a)(2) from milk produced in a country listed in § 94.1(a)(2). The certificate was to name the country in which the milk was produced and the country in which the milk or milk product was processed. Further, the certificate was to state that, except for movement under seal as described in